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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,	)	3:05-cr-00098-HDM
	)	3:16-cv-00255-HDM
Plaintiff,	)	
	)	
vs.	)	
	)	ORDER
JOHNATHON ROBERTS,	)	
	)	
Defendant.	)	
_____	)	

On June 2, 2017, the court struck the defendant's pro se motion to dismiss. (ECF No. 577). On June 15, 2017, defendant filed a notice of appeal. (ECF No. 579). Although defendant does not identify what order of the court he appeals, the court presumes he is appealing its order of June 2, 2017. The court will deny defendant a certificate of appealability for an appeal of that order.

The standard for issuance of a certificate of appealability calls for a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c). The Supreme Court has interpreted

1 U.S.C. § 2253(c) as follows: "Where a district court has rejected  
2 the constitutional claims on the merits, the showing required to  
3 satisfy § 2253(c) is straightforward: The defendant must  
4 demonstrate that reasonable jurists would find the district court's  
5 assessment of the constitutional claims debatable or wrong." *Slack*  
6 *v. McDaniel*, 529 U.S. 473, 484 (2000); see also *James v. Giles*, 221  
7 F.3d 1074, 1077-79 (9th Cir. 2000). The Supreme Court further  
8 illuminated the standard for issuance of a certificate of  
9 appealability in *Miller-El v. Cockrell*, 537 U.S. 322 (2003). The  
10 Court stated in that case:

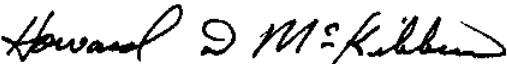
11 We do not require petitioner to prove, before the  
12 issuance of a COA, that some jurists would grant the  
13 petition for habeas corpus. Indeed, a claim can be  
14 debatable even though every jurist of reason might  
15 agree, after the COA has been granted and the case  
16 has received full consideration, that petitioner  
17 will not prevail. As we stated in *Slack*, "[w]here a  
18 district court has rejected the constitutional  
19 claims on the merits, the showing required to  
20 satisfy § 2253(c) is straightforward: The petitioner  
21 must demonstrate that reasonable jurists would find  
22 the district court's assessment of the  
23 constitutional claims debatable or wrong."

18 *Miller-El*, 123 S.Ct. at 1040 (quoting *Slack*, 529 U.S. at 484).

19 The court has considered the issues raised by defendant, with  
20 respect to whether they satisfy the standard for issuance of a  
21 certificate of appeal, and determines that none meet that standard.  
22 The court therefore denies a certificate of appealability with  
23 respect to the appeal of the court's order dated June 2, 2016.

24 IT IS SO ORDERED.

25 DATED: This 20th day of June, 2017.

26  
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28 UNITED STATES DISTRICT JUDGE